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18 **UNITED STATES DISTRICT COURT**  
19 **NORTHERN DISTRICT OF CALIFORNIA**  
20 **SAN FRANCISCO DIVISION**

21 **IN RE GOOGLE PLAY STORE**  
22 **ANTITRUST LITIGATION**

23 This Document Relates To:

24 *Match Group, LLC et al. v. Google LLC et al.*,  
Case No. 3:22-cv-02746-JD

25 *Epic Games Inc. v. Google LLC et al.*, Case No.  
3:20-cv-05671-JD

Case No. 3:21-md-02981-JD

MDL No. 2891

26 **DECLARATION OF GLENN D.**  
**POMERANTZ IN SUPPORT OF**  
**DEFENDANTS' OPPOSITION TO**  
**EPIC'S AND MATCH'S MOTION**  
**FOR LEAVE TO AMEND**

27 Judge: Hon. James Donato  
Date: November 17, 2022  
28 Time: 10:00 a.m. Pacific Time

3:21-md-02981-JD

**DECLARATION OF GLENN D. POMERANTZ**

I, Glenn D. Pomerantz, hereby declare:

1. I am admitted to practice before this Court. I am a partner at the law firm of Munger, Tolles & Olson LLP and counsel of record for Google in the above-captioned matters. I have personal knowledge of the facts set forth in this declaration, except where stated that the facts are based on my understanding or belief. If called as a witness, I could and would testify competently to the matters set forth herein.

8        2.        On September 30, 2022, counsel for Epic Games, Inc. (“Epic”) contacted me and  
9 informed me that Epic was preparing to file an amended complaint to add new causes of action  
10 under Section 1 of the Sherman Act based on agreements that Google reached with certain app  
11 developers. On October 2, 2022, Epic’s counsel shared with me a draft of the proposed amended  
12 complaint, and asked if Google would consent to it. On October 7, 2022, I informed Epic’s  
13 counsel that Google would not consent. In response, Epic’s counsel informed me on the same  
14 date that Match Group, Inc. (“Match”) would also seek leave to amend its own complaint, and  
15 Match’s counsel confirmed that it would amend “with allegations and claims that are the same as  
16 or similar to those in Epic’s proposed amendment.”

17       3.     Discovery has unearthed evidence that Match’s counsel participated in substantive  
18 discussions with officials from the States’ Offices of the Attorneys General, since before this  
19 litigation began in August 2020. *See, e.g.*, Exhibit A (referenced below). After Match joined the  
20 litigation in May 2022, Google re-produced all of the documents to Match that Google had  
21 previously produced to the other parties in this litigation.

22       4.       My team has analyzed the timing of when Google produced certain documents to  
23 the parties, including Epic, in this litigation. It is my understanding that Google produced the  
24 internal “email” that Epic and Match reference in their respective amended complaints (paragraphs  
25 199 and 274, respectively), on December 3, 2021, ten months ago. I also understand that Google  
26 produced before that date nearly 30,000 documents referring to Project Hug (or Games Velocity  
27 Program or GVP), and approximately 37,000 documents referencing the developers identified in  
28 the proposed amendments (Activision, Riot Games, and Supercell). Plaintiffs took the deposition

1 of Google employees Lawrence Koh and Michael Marchak in December 2021 and January 2022,  
2 respectively.

3       5. Attached to this declaration are the following exhibits:

4           a. **Exhibit A** is a true and accurate copy of an email (STATEAGS\_0057437)  
5 and an excerpt from an attached presentation (STATEAGS\_0057439), produced by the State  
6 Plaintiffs.

7           b. **Exhibit B** is a true and accurate copy of a printout of a Tweet from Tim  
8 Sweeney on August 19, 2021. It is also available at Tim Sweeney (@timsweeneyepic), Twitter  
9 (Aug. 19, 2021, 12:22 PM), <https://tinyurl.com/87pnjx5s>.

10          c. **Exhibit C** is a true and accurate copy of an excerpt of the deposition of  
11 Michael Marchak taken in this litigation.

12          d. **Exhibit D** is a true and accurate copy of an excerpt of the deposition of an  
13 executive of Activision Blizzard, Inc., a third party, taken in this litigation.

14          I declare under penalty of perjury under the laws of the United States of America that the  
15 foregoing is true and correct.

16          Executed on this 21st day of October, 2022, at Los Angeles, California.

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*/s/ Glenn D. Pomerantz*

Glenn D. Pomerantz

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